STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF

RHODE ISLAND STATE LABOR RELATIONS BOARD

AND

CASE NO. ULP-4618

WOONSOCKET SCHOOL COMMITTEE

DECISION AND ORDER

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter Board) on an Unfair Labor Practice Complaint (hereinafter Complaint) issued by the Board against the City of Woonsocket School Committee (hereinafter Respondent) based upon an Unfair Labor Practice Charge (hereinafter Charge) filed on July 3, 1992, by Woonsocket Teachers' Guild, Local 951 American Federation of Teachers (hereinafter Union)

The Charge alleged that:

"The employer, the Woonsocket School Committee, has violated 28-7 of the General Laws of the State of Rhode Island by unilaterally eliminating and/or abolishing department heads, coaches and extra-curricular activities' positions."

To this Charge is added the words "Section 6 & 10 REC 12-13-92".[1]

Following the filing of the Charge, the Board notified Union and the Respondent that an informal conference would be held on August 13, 1992. Various postponements of the informal conference delayed its taking place until December 17, 1992. On December 17, 1992, the informal conference was held with representatives of the Union and the Respondent in attendance.

When the informal conference failed to resolve the Charge, Board issued the instant Complaint on February 26, 1993, and set a

[1] This addition was made by Robert E. Casey, Field Representative of the Union, on December 17, 1992, and has reference to the subsections of R.I.G.L. 28-7-13 which constitute unfair labor practices.

Formal Hearing for April 14, 1993. The Complaint, in Paragraph 3, alleges that:

"3. ...the Employer, Woonsocket School Committee, has violated 28-7 of the General Laws of the State of Rhode Island by unilaterally eliminating and/or abolishing department heads, coaches and extra-curricular activities' position."

No Answer to the Complaint was filed.[2] The Formal Hearing in this matter took place as noticed on April 14, 1993, with representatives of both the Union and the Respondent in attendance. At the end of all testimony the Union and the Respondent orally argued their respective positions. No briefs were filed.

In arriving at the Decision and Order herein, the Board has reviewed the testimony, exhibits and oral arguments of the Union and the Respondent

DISCUSSION

Certified public school teachers have the right to organize and to be represented and to negotiate professionally with school committees concerning hours, salary, working conditions and other terms of professional employment.[3] R.I.G.L. 28-9.3-2 provides in pertinent part that:

"The certified teacher in the public school system in any city, town or regional school district shall have the right to negotiate professionally and to bargain collectively with their respective school committees and to be represented by an association or labor organization in such negotiations or collective bargaining concerning hours, salary, working conditions and all other terms and conditions of professional employment...."

R.I.G.L. 28-9.3-4 in part provides that

"Failure to negotiate and bargain in good faith may be complained of by either the negotiating or bargaining agent or the school committee to the state labor relations board which shall

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[2] Under Section 10 of the General Rules and Regulations of the Board, effective June 1, 1943, "Upon failure of the Respondent to file an Answer within the five (5) days specified in Section 24 of said Rules and Regulations, the Board may proceed to hold a hearing at the time and place specified in the notice of hearing, and may make its findings of fact and enter its order upon the testimony so taken".

[3] R.I.G.L. 28-9.3-1.

deal with such complaint in the manner provided in chapter 28-7 of this title".

R.I.G.L. 28-7-13 6) in pertinent part provides that:

"It shall be an unfair labor practice for an employer...

(6) To refuse to bargain collectively with the representatives employees...".

It is clear to the Board that negotiations, pursuant to the foregoing statutory provisions, relate to a broad range of subjects, as evidenced by the use of the phrase ...working conditions and all other terms and conditions of employment" (Underlining added). The Collective Bargaining Agreement, in effect between the parties, contained special salary supplements department heads, coaches and extra-curricular activities' personnel.

In the early winter of 1992, the Respondent was aware of budgetary constraints, as were numerous school committees throughout the State of Rhode Island. In February of 1992, the Superintendent of Schools sent to the Respondent a listing of Personnel employed in the City of Woonsocket School System, that were going to receive termination notices.[4] The list was introduced into evidence as Union Exhibit #1 and will hereinafter be referred to as the "List". The List, listed all eight (8) of Department Heads in the Junior High School and all coaches employed by the Respondent as well as teachers employed in extra-curricular activities such as Class Advisor, Drama Club Advisor, Intermural Physical Fitness, Student Council Advisor, Math Club Advisor, Newspaper Advisor Senior High and Junior High), Villa Novan Advisor, Yearbook Financial Advisor, Cheerleaders Advisor and Drama Club Advisor. Clearly, all occupants of positions of Department Head in the Junior High School and all occupants of

[4] Such notices are routinely given by School Committees in the State of Rhode Island in order to comply with a statutory requirement that notice of non-renewal must be given to teachers prior to March 1 of the school year. It is equally routine for School Committees to rehire many of those teachers prior to or during the subsequent school year.

coaching positions and all occupants of extra-curricular activities were to be notified of the termination of their employment. record is clear that no negotiations took place between the Union and the Respondent prior to the establishment of the List, or its being sent by the Superintendent of the Respondent, to Respondent

The Union argues that the total elimination of classifications (i.e. Department Heads Junior High School, coaches, extra-curricular activities personnel) constitute a change in working conditions under the Collective Bargaining Agreement and as such required the Respondent to engage in collective bargaining with the Union in relation thereto. The Union concedes that the Respondent could eliminate positions within classifications without having to negotiate with the Union in relation thereto.[5]

The Respondent argues that under its management rights, it has the authority to do as it did and is not required to engage in collective bargaining with the Union in relation thereto. In support of its position, the Respondent introduced into evidence three (3) Arbitration Awards which held that the Respondent had not violated the Collective Bargaining Agreement by eliminating certain positions.[6]

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[5] Since the Board, in this case, is not faced with the issue of the requirement of collective bargaining relative to the elimination of positions within a classification but is faced here with the elimination of the classification of positions, the Board will express no opinion in relation thereto.

[6] In Woonsocket Teachers' Guild and Woonsocket School Committee, AAA Case No. 10 390 00040 92 (Arbitrator Garry J. Wooters, 9/15/92) found that the Respondent had not violated the Collective Bargaining Agreement by the unilateral elimination of the positions of "Gifted and Talented and Diagnostic Prescriptive Teacher" (Respondent's Exhibit #1).

In Woonsocket Teachers' Guild, Local 951, AFT and Woonsocket School Committee, AAA Case No. 10-390-0275-91 (Arbitrator Mark L. Irvings, 8/26/92) found that the Respondent had not violated the Collective Bargaining Agreement by the unilateral elimination of the position of Department Head for elementary physical education, music and art (Respondent's Exhibit #2).

In Woonsocket School Committee and Woonsocket Teachers Guild, AAA Case No. 1139-1137-74 (Arbitrator Lawrence Holden, 5/15/75) found that the Respondent had not violated the Collective Bargaining Agreement by the unilateral elimination and non-posting of the position of Financial Manager (Respondent's Exhibit #3).

The issues in the above-referred Arbitrations did not involve the issue of whether such unilateral action was in violation of the Respondent's obligation to bargain in good faith pursuant to the provisions of R.I.G.L. 28-9.3-2, 28-9.3-4 and 28-7-13 (6) and 10)

The elimination of the entire classification of Department Heads Junior High School; the elimination of the entire classification of coaches and the elimination of the entire classification of extra-curricular activities' personnel, clearly would impact upon the bargaining representative in this case, the Union). Further, the classifications of Department Heads, coaches and extra-curricular activities' personnel had been negotiated into the Collective Bargaining Agreement. As viewed by the Board, the removal of such classifications would require collective bargaining between the Union and the Respondent. It is clear that prior to the establishment of the List, no negotiations took place.

The Respondent argues that neither the List nor the subsequent notice to employees on the List, that they would not be rehired for the subsequent school year, did not constitute termination of their employment or the elimination of the positions; that such could only be done by the Respondent and there was no evidence, in this case, of any such action.

As the Board views the List, it was at least the opening salvo in eliminating the classification of positions so specified. There is little doubt that upon receipt of a notice of non-renewal, the employee had no position for the next school year. When the occupants of all positions within a classification receive notice of non-renewal, the classification itself is gone. As seen by the Board, the combination of the List and the non-renewal letters in fact deleted the classifications of Department Heads Junior High, coaches and extra-curricular activities' personnel. The failure to bargain with the Union in relation thereto was an unfair labor practice, for the working conditions of the members of the Union were changed. Had negotiations taken place, prior to the establishment of the List and notice pursuant thereto, it is at least conceivable that a resolution of the total abolishment of

classifications might have been resolved. Whatever the results might or might not have been, it was the duty of the Respondent to engage in negotiations with the Union in relation thereto.

FINDINGS OF FACT

1. The Union is a labor organization within the meaning of Rhode Island State Labor Relations Act, which exists and is constituted for the purposes, in whole or in part, of collective bargaining relative to wages, rates of pay, hours, working conditions and other terms and conditions of employment.

2. The Respondent is an employer within the meaning of the Rhode Island State Labor Relations Act.

3. The Union and the Respondent had in effect a Collective Bargaining Agreement which in part covered the classifications of Department Head Junior High School, coaches and extra-curricular activities' personnel

4. The Respondent unilaterally in February of 1992 notified the occupants of the classifications of positions set forth in Finding of Fact 3 above that they were non-renewed for the 1992-1993 school year.

5. The action of the Respondent referred to in Finding of Fact 4 above was unilateral in nature and done without negotiations the Union.

6. The failure of the Respondent to negotiate with the Union constituted a violation of R.I.G.L. 28-9.3-2, and 28-7-13 (6) and

CONCLUSIONS OF LAW

1. The Union has proven by a fair preponderance of the credible evidence that the Respondent, by its failure to negotiate with the Union concerning the elimination of the classifications of Department Head Junior High School, coaches and extra-curricular activities' personnel, committed an unfair labor practice in violation of R.I.G.L. 28-7-13 (6) and (10)

ORDER

1. The Respondent shall cease and desist from refusal to bargain with the Union concerning the abolishment of position classifications.

2. The Respondent is directed, within sixty (60) days of the date hereof, to negotiate with the Union concerning the abolishment of the position classifications of Department Heads Junior High School, coaches and extra-curricular activities' personnel

RHODE ISLAND STATE LABOR RELATIONS BOARD

Joseph V. Mulvey, Chairman

Raymond Petrarca, Member

Glenn H. Edgecomb, Member

Frank J. Montanaro, Member

Entered as Order of the
Rhode Island State Labor Relations Board

Dated: December 3, 1993

By: Donna M. Geoffroy
AGENT OF THE BOARD